

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	
	)	Criminal No. 05-30023-MAP
	)	
	)	
v.	)	
	)	
WALTER MAY,	)	
Defendant.	)	

GOVERNMENT'S MOTION FOR  
ORDER OF EXCLUDABLE DELAY  
OR EARLIER PRETRIAL CONFERENCE

Now comes the United States, by its undersigned attorneys, and hereby moves for an Order of Excludable Delay from February 27, 2007 through March 15, 2007 pursuant to 18 U.S.C. §3161(h)(8)(A) or in the alternative moves that the Court advance the Pretrial Conference currently scheduled for March 15, 2007. The government relies on the following in support thereof.

On February 27, 2007, Magistrate Judge Neiman held a Final Status Conference. During the conference discovery motions were argued, Attorney Alan Black moved to disappear, Attorney Kevin Murphy filed an appearance as standby pro hac vice counsel and Attorney Mitchell H. Nelson filed an appearance and Motion to Appear Pro Hac Vice. The motion of Attorney Black to disappear was accompanied by a sealed ex parte affidavit and a lengthy ex parte side bar conference attended only by Attorney Black and the defendant. Over the government's objection, the substitution of counsel was allowed by the Magistrate.

While arguing a discovery motion, Attorney Nelson advised the Court that he had not yet reviewed any discovery in this case, which although not voluminous is extensive. The Magistrate then established a date for a Pretrial Conference before this Court, originally on March 22, 2007, then March 15, 2007. The government moved for the exclusion of the time between February 27, 2007, through March 15, 2007 pursuant to 18 U.S.C. § 3161(h)(8)(A) in order that new defense counsel have the opportunity to review the discovery prior to the Pretrial Conference. The defendant objected and the Magistrate refused to enter an Order of Excludable Delay.

Therefore, based upon the following facts, the government moves for the entry of an Order of Excludable Delay from February 27, 2007, through March 15, 2007 pursuant to 18 U.S.C. § 3161(h)(8)(A). In the alternative, if that motion is denied the government moves that the Pretrial Conference be advanced and

scheduled as soon as possible.

Respectfully submitted,

MICHAEL J. SULLIVAN  
United States Attorney

By: /s/ Todd E. Newhouse

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TODD E. NEWHOUSE  
Assistant U.S. Attorney

CERTIFICATE OF SERVICE

Hampden, ss.

Springfield, Massachusetts  
February 27, 2007

I, Todd E. Newhouse, Assistant U.S. Attorney, do hereby certify that I have served, by ECF notification, a copy of the foregoing, to all counsel of record.

/s/ Todd E. Newhouse

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TODD E. NEWHOUSE  
Assistant U.S. Attorney